

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Stanley H. Trezevant, III)
Ward 080, Block 027, Parcels B00001, B00002,) Shelby County
and B00003)
Residential Property)
Tax Years 2005 & 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

Parcel B00001

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$425,000	\$ -0-	\$425,000	\$106,250

Parcel B00002

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$425,000	\$ -0-	\$425,000	\$106,250

Parcel B00003

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$400,000	\$ -0-	\$400,000	\$100,000

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on July 11, 2007 in Memphis, Tennessee. In attendance at the hearing were Trip Trezevant, the appellant, and Shelby County Property Assessor's representative Nathan Chamness.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of three vacant building lots located in the Heron Oaks Subdivision on Heron Oaks Cove in Memphis.

The taxpayer contended that subject lots should be valued at a maximum of \$350,000. In support of this position, Mr. Trezevant testified that he has unsuccessfully offered subject lots for sale at \$350,000 for over one year. Mr. Trezevant maintained that subject lots experience a diminution in value because they slope downward and/or back-up to a major thoroughfare (Massey Road). Mr. Trezevant noted that a lot immediately to the south which also borders Massey Road sold for only \$289,000.

The taxpayer also asserted that the current appraisals of subject lots do not achieve equalization. In support of this position, Mr. Trezevant introduced the assessor's \$275,100 and \$299,700 appraisals of lots located on nearby Blue Heron Cove.¹

The assessor contended that subject lots should remain valued at \$400,000 and \$425,000. In support of this position, five comparable sales were introduced into evidence. Mr. Chamness noted that two of the comparables are located directly across the street and sold for \$510,216 and \$450,000 in 2004 and 2006 respectively.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values"

After having reviewed all the evidence in the case, the administrative judge finds that the subject lots should remain valued at \$400,000 and \$425,000 based upon the presumptions of correctness attaching to the decisions of the Shelby County Board of Equalization.

Since the taxpayer is appealing from the determination of the Shelby County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that January 1, 2005 and January 1, 2006 constitute the relevant assessment dates. See Tenn. Code Ann. § 67-5-504(a). The administrative judge finds Mr. Trezevant's attempts to sell subject lots for \$350,000 in 2006 and 2007 irrelevant. See *Acme Boot Company and Ashland City Industrial Corporation* (Cheatham County - Tax Year 1989) wherein the Assessment Appeals Commission ruled that "[e]vents occurring after [the assessment] date are not relevant unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events." Final Decision and Order at 3.

The administrative judge finds that the sale of the lot to the south could possibly have significant probative value given additional proof. However, there is presently nothing in the record to establish either the size of the lot or the sale date. It appears from the plat (exhibit #4) that this lot is potentially smaller than subject lots and more adversely impacted by Massey Road.

The administrative judge finds that the taxpayer's equalization argument must be rejected. The administrative judge finds that the State Board of Equalization has historically adhered to a market value standard when setting values for property tax purposes. See

¹ Both lots are improved with residences.

Appeals of Laurel Hills Apartments, et al. (Davidson County, Tax Years 1981 and 1982, Final Decision and Order, April 10, 1984). Under this theory, an owner of property is entitled to “equalization” of its demonstrated market value by a ratio which reflects the overall level of appraisal in the jurisdiction for the tax year in controversy.² The State Board has repeatedly refused to accept the *appraised* values of purportedly comparable properties as sufficient proof of the *market* value of a property under appeal. For example, in *Stella L. Swope* (Davidson County, Tax Years 1993 and 1994), the Assessment Appeals Commission rejected such an argument reasoning as follows:

The assessor’s recorded values for other properties may suffer from errors just as Ms. Swope has alleged for her assessment, and therefore the recorded values cannot be assumed to prove market value.

Final Decision and Order at 2.

The administrative judge finds that three of the comparables (#1, #2 & #3) relied on by Mr. Chamness sold in 2004 and are relevant for tax years 2005 and 2006. The administrative judge finds that comparable #4 sold in 2005 and is relevant for at least tax year 2006.

The administrative judge finds that the four comparable sales can be summarized as follows:

<u>Comparable</u>	<u>Acres</u>	<u>Sale Price (\$)</u>	<u>Sale Price Per Acre (\$)</u>
1	0.56	329,000	601,429
2	0.72	447,500	608,611
3	0.84	510,216	595,714
4	1.08	594,511	556,870

The administrative judge finds that subject lots are presently appraised as follows:

<u>Parcel</u>	<u>Acres</u>	<u>Appraisal (\$)</u>	<u>Appraisal Per Acre (\$)</u>
B00001	0.75	425,000	566,667
B00002	0.74	425,000	566,667
B00003	0.78	400,000	512,821

Respectfully, it appears that the Shelby County Board of Equalization adequately considered the factors causing a diminution in value when it reduced the appraisals of subject lots. Absent additional evidence from the taxpayer, the administrative judge finds no further reduction in value warranted.

The administrative judge finds merely reciting factors that could cause a diminution in value does not establish the current appraisal exceeds market value. The administrative

² See Tenn. Code Ann. §§ 67-5-1604-1606. Usually, in a year of reappraisal – whose very purpose is to appraise all properties in the taxing jurisdiction at their fair market values – the appraisal ratio is 1.0000 (100%). That is the situation here.

judge finds the Assessment Appeals Commission has ruled on numerous occasions that one must *quantify* the loss in value one contends has not been adequately considered. See, e.g., *Fred & Ann Ruth Honeycutt* (Carter Co., Tax Year 1995) wherein the Assessment Appeals Commission ruled that the taxpayer introduced insufficient evidence to quantify the loss in value from the stigma associated with a gasoline spill. The Commission stated in pertinent part as follows:

The assessor conceded that the gasoline spill affected the value of the property, but he asserted that his valuation already reflects a deduction of 15% for the effects of the spill. . . . The administrative judge rejected Mr. Honeycutt’s claim for an additional reduction in the taxable value, noting that he had not produced evidence by which to quantify the effect of the “stigma.” The Commission finds itself in the same position. . . . Conceding that the marketability of a property may be affected by contamination of a neighboring property, we must have proof that allows us to quantify the loss in value, such as sales of comparable properties. . . Absent this proof here we must accept as sufficient, the assessor’s attempts to reflect environmental condition in the present value of the property.

Final Decision and Order at 1-2. Similarly, in *Kenneth R. and Rebecca L. Adams* (Shelby Co., Tax Year 1998) the Commission ruled in relevant part as follows:

The taxpayer also claimed that the land value set by the assessing authorities. . .was too high. In support of that position, she claimed that. . .the use of surrounding property detracted from the value of their property. . . . As to the assertion the use of properties has a detrimental effect on the value of the subject property, that assertion, without some valid method of quantifying the same, is meaningless.

Final Decision and Order at 2.

ORDER

It is therefore ORDERED that the following values and assessments be adopted for tax years 2005 and 2006:

<u>Parcel B00001</u>			
<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$425,000	\$ -0-	\$425,000	\$106,250
<u>Parcel B00002</u>			
<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$425,000	\$ -0-	\$425,000	\$106,250
<u>Parcel B00003</u>			
<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$400,000	\$ -0-	\$400,000	\$100,000

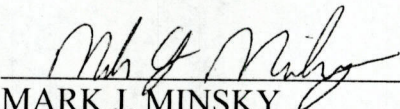
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 19th day of July, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Trip Trezevant
Tameaka Stanton-Riley, Appeals Manager